

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

TYRONE HURT,

Plaintiff(s),

VS.

HILLARY R. CLINTON, et al.,

Defendant(s).

Case No. 2:17-cv-00315-JAD-NJK

REPORT AND RECOMMENDATION

On March 2, 2017, the Court screened Plaintiff's complaint as required by 28 U.S.C. § 1915. Docket No. 5. The Court found Plaintiff's complaint deficient because it was not sufficiently legible to enable the Court or any opposing party to fully understand it. *Id.* at 1. The Court ordered that, to the extent Plaintiff believed he could cure the identified defect, he must file an amended complaint by April 3, 2017. *Id.* at 2. On March 13, 2017, Plaintiff filed an amended complaint. Docket No. 7. On March 17, 2017, the Court dismissed Plaintiff's complaint with leave to amend, again because it was illegible. Docket No. 8. at 1-2. The Court gave Plaintiff one final opportunity to cure the identified defect and ordered him to file a second amended complaint, no later than April 17, 2017. *Id.* The Court warned Plaintiff that failure to comply with its order would result in the recommended dismissal of this case, without prejudice. *Id.* at 2. To date, Plaintiff has not filed a second amended complaint. *See* Docket. Accordingly, the undersigned **RECOMMENDS** that this case be

1 **DISMISSED** without prejudice.¹

2 IT IS SO ORDERED.

3 Dated: May 12, 2017.

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5 NANCY J. KOPPE
United States Magistrate Judge

6 **NOTICE**

7 Pursuant to Local Rule IB 3-2, any objection to this Report and Recommendation must be
8 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
9 held that the courts of appeal may determine that an appeal has been waived due to the failure to file
10 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also
11 held that (1) failure to file objections within the specified time and (2) failure to properly address and
12 brief the objectionable issues waives the right to appeal the District Court's order and/or appeal
13 factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir.
14 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).

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24 ¹ The Court notes that Plaintiff filed a notice of appeal. Docket No. 14. No dispositive
25 rulings have been issued in this case. Instead, Plaintiff appeals the Court's order denying his motion
26 for the Court to reconsider its order denying his motion for appointment of counsel. *See id.*
27 Notwithstanding that notice of appeal, this Court retains jurisdiction over this case. *See, e.g.,*
Nascimento v. Dummer, 508 F.3d 905 (9th Cir.2007) ("when an improper appeal is taken, the district
court retains its jurisdiction to act on the case").